

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
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CHAPTER 71

SENATE BILL 1007

AN ACT

AMENDING SECTIONS 33-1242, 33-1248, 33-1256, 33-1258, 33-1803, 33-1804, 33-1805 AND 33-1807, ARIZONA REVISED STATUTES; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1242, Arizona Revised Statutes, is amended to
3 read:

4 33-1242. Powers of unit owners' association; notice to unit
5 owner of violation

6 A. Subject to the provisions of the declaration, the association may:

7 1. Adopt and amend bylaws and rules.

8 2. Adopt and amend budgets for revenues, expenditures and reserves and
9 collect assessments for common expenses from unit owners.

10 3. Hire and discharge managing agents and other employees, agents and
11 independent contractors.

12 4. Institute, defend or intervene in litigation or administrative
13 proceedings in its own name on behalf of itself or two or more unit owners on
14 matters affecting the condominium.

15 5. Make contracts and incur liabilities.

16 6. Regulate the use, maintenance, repair, replacement and modification
17 of common elements.

18 7. Cause additional improvements to be made as a part of the common
19 elements.

20 8. Acquire, hold, encumber and convey in its own name any right, title
21 or interest to real or personal property, except that common elements may be
22 conveyed or subjected to a security interest only pursuant to section
23 33-1252.

24 9. Grant easements, leases, licenses and concessions through or over
25 the common elements.

26 10. Impose and receive any payments, fees or charges for the use,
27 rental or operation of the common elements other than limited common elements
28 described in section 33-1212, paragraphs 2 and 4 and for services provided to
29 unit owners.

30 11. Impose charges for late payment of assessments and, after notice
31 and an opportunity to be heard, impose reasonable monetary penalties upon
32 unit owners for violations of the declaration, bylaws and rules of the
33 association.

34 12. Impose reasonable charges for the preparation and recordation of
35 amendments to the declaration or statements of unpaid assessments.

36 13. Provide for the indemnification of its officers and executive board
37 of directors and maintain directors' and officers' liability insurance.

38 14. Assign its right to future income, including the right to receive
39 common expense assessments, but only to the extent the declaration expressly
40 provides.

41 15. Be a member of a master association or other entity owning,
42 maintaining or governing in any respect any portion of the common elements or
43 other property benefitting or related to the condominium or the unit owners
44 in any respect.

45 16. Exercise any other powers conferred by the declaration or bylaws.

1 17. Exercise all other powers that may be exercised in this state by
2 legal entities of the same type as the association.

3 18. Exercise any other powers necessary and proper for the governance
4 and operation of the association.

5 B. BEFORE TAKING ACTION TO ENFORCE THE PROVISIONS OF THE CONDOMINIUM
6 DOCUMENTS REGARDING THE CONDITION OF THE UNIT OWNER'S PROPERTY, THE
7 ASSOCIATION SHALL PROVIDE THE UNIT OWNER WITH WRITTEN NOTICE OF THE VIOLATION
8 OF THE CONDOMINIUM DOCUMENTS AND A DESCRIPTION OF THE PROCESS THE UNIT OWNER
9 MUST FOLLOW TO CONTEST THE NOTICE. A UNIT OWNER WHO RECEIVES A WRITTEN
10 NOTICE THAT THE CONDITION OF THE PROPERTY OWNED BY THE UNIT OWNER IS IN
11 VIOLATION OF A REQUIREMENT OF THE CONDOMINIUM DOCUMENTS WITHOUT REGARD TO
12 WHETHER A MONETARY PENALTY IS IMPOSED BY THE NOTICE MAY PROVIDE THE
13 ASSOCIATION WITH A WRITTEN RESPONSE BY SENDING THE RESPONSE BY CERTIFIED MAIL
14 WITHIN TEN BUSINESS DAYS AFTER THE DATE OF THE NOTICE. THE RESPONSE SHALL BE
15 SENT TO THE ADDRESS CONTAINED IN THE RECORDED NOTICE PRESCRIBED BY SECTION
16 33-1256, SUBSECTION J. WITHIN TEN BUSINESS DAYS AFTER RECEIPT OF THE
17 CERTIFIED MAIL CONTAINING THE RESPONSE FROM THE UNIT OWNER, THE ASSOCIATION
18 SHALL RESPOND TO THE UNIT OWNER WITH A WRITTEN EXPLANATION REGARDING THE
19 NOTICE. THE WRITTEN EXPLANATION FROM THE ASSOCIATION SHALL PROVIDE AT LEAST
20 THE FOLLOWING INFORMATION:

21 1. THE PROVISION OF THE CONDOMINIUM DOCUMENTS THAT HAS ALLEGEDLY BEEN
22 VIOLATED.

23 2. THE DATE OF THE VIOLATION OR THE DATE THE VIOLATION WAS OBSERVED.

24 3. THE FIRST AND LAST NAME OF THE PERSON OR PERSONS WHO OBSERVED THE
25 VIOLATION.

26 C. THE ASSOCIATION SHALL NOT PROCEED WITH ANY ACTION TO ENFORCE THE
27 CONDOMINIUM DOCUMENTS, INCLUDING THE COLLECTION OF ATTORNEY FEES, BEFORE OR
28 DURING THE TIME PRESCRIBED BY SUBSECTION B OF THIS SECTION REGARDING THE
29 EXCHANGE OF INFORMATION BETWEEN THE ASSOCIATION AND THE UNIT OWNER.

30 Sec. 2. Section 33-1248, Arizona Revised Statutes, is amended to read:
31 33-1248. Open meetings; exceptions

32 A. Notwithstanding any provision in the declaration, bylaws or other
33 documents to the contrary, all meetings of the association and board of
34 directors are open to all members of the association or any person designated
35 by a member in writing as the member's representative and all members or
36 designated representatives so desiring shall be permitted to attend and speak
37 at an appropriate time during the deliberations and proceedings. The board
38 may place reasonable time restrictions on those persons speaking during the
39 meeting but shall permit a member or a member's designated representative to
40 speak before the board takes formal action on an item under discussion in
41 addition to any other opportunities to speak. The board shall provide for a
42 reasonable number of persons to speak on each side of an issue. Any portion
43 of a meeting may be closed only if that portion of the meeting is limited to
44 consideration of one or more of the following:

1 1. Legal advice from an attorney for the board or the association. On
2 final resolution of any matter for which the board received legal advice or
3 that concerned pending or contemplated litigation, the board may disclose
4 information about that matter in an open meeting except for matters that are
5 required to remain confidential by the terms of a settlement agreement or
6 judgment.

7 2. Pending or contemplated litigation.

8 3. Personal, health and OR financial information about an individual
9 member of the association, an individual employee of the association or an
10 individual employee of a contractor for the association, INCLUDING RECORDS OF
11 THE ASSOCIATION DIRECTLY RELATED TO THE PERSONAL, HEALTH OR FINANCIAL
12 INFORMATION ABOUT AN INDIVIDUAL MEMBER OF THE ASSOCIATION, AN INDIVIDUAL
13 EMPLOYEE OF THE ASSOCIATION OR AN INDIVIDUAL EMPLOYEE OF A CONTRACTOR FOR THE
14 ASSOCIATION.

15 4. Matters relating to the job performance of, compensation of, health
16 records of or specific complaints against an individual employee of the
17 association or an individual employee of a contractor of the association who
18 works under the direction of the association.

19 B. Notwithstanding any provision in the condominium documents, all
20 meetings of the association and the board shall be held in this state. A
21 meeting of the association shall be held at least once each year. Special
22 meetings of the association may be called by the president, by a majority of
23 the board of directors or by unit owners having at least twenty-five per
24 cent, or any lower percentage specified in the bylaws, of the votes in the
25 association. Unless otherwise provided in the articles or the bylaws of the
26 association, not fewer than ten nor more than fifty days in advance of any
27 meeting of the unit owners, the secretary shall cause notice to be hand
28 delivered or sent prepaid by United States mail to the mailing address of
29 each unit or to any other mailing address designated in writing by the unit
30 owner. The notice of any meeting of the unit owners shall state the time and
31 place of the meeting. The notice of any special meeting of the unit owners
32 shall also state the purpose for which the meeting is called, including the
33 general nature of any proposed amendment to the declaration or bylaws, any
34 changes in assessments that require approval of the unit owners and any
35 proposal to remove a director or officer. The failure of any unit owner to
36 receive actual notice of a meeting of the unit owners does not affect the
37 validity of any action taken at that meeting.

38 C. Unless otherwise provided in the articles or bylaws of the
39 association, for meetings of the board of directors that are held after the
40 termination of declarant control of the association, notice to unit owners of
41 meetings of the board of directors shall be given at least forty-eight hours
42 in advance of the meeting by newsletter, conspicuous posting or any other
43 reasonable means as determined by the board of directors. An affidavit of
44 notice by an officer of the association is prima facie evidence that notice
45 was given as prescribed by this section. Notice to unit owners of meetings

1 of the board of directors is not required if emergency circumstances require
2 action by the board before notice can be given. Any notice of a board
3 meeting shall state the time and place of the meeting. The failure of any
4 unit owner to receive actual notice of a meeting of the board of directors
5 does not affect the validity of any action taken at that meeting.

6 D. This section does not apply to timeshare plans or associations that
7 are subject to chapter 20 of this title.

8 Sec. 3. Section 33-1256, Arizona Revised Statutes, is amended to read:

9 33-1256. Lien for assessments; priority; mechanics' and
10 materialmen's liens; applicability

11 A. The association has a lien on a unit for any assessment levied
12 against that unit from the time the assessment becomes due. The
13 association's lien for assessments, for charges for late payment of those
14 assessments, for reasonable collection fees and for reasonable attorney fees
15 and costs incurred with respect to those assessments may be foreclosed in the
16 same manner as a mortgage on real estate BUT MAY BE FORECLOSED ONLY IF THE
17 OWNER HAS BEEN DELINQUENT IN THE PAYMENT OF MONIES SECURED BY THE LIEN,
18 EXCLUDING REASONABLE COLLECTION FEES, REASONABLE ATTORNEY FEES AND CHARGES
19 FOR LATE PAYMENT OF AND COSTS INCURRED WITH RESPECT TO THOSE ASSESSMENTS, FOR
20 A PERIOD OF ONE YEAR OR IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED DOLLARS OR
21 MORE, WHICHEVER OCCURS FIRST. Fees, charges, late charges, monetary
22 penalties and interest charged pursuant to section 33-1242, SUBSECTION A,
23 paragraphs 10, 11 and 12, other than charges for late payment of assessments,
24 are not enforceable as assessments under this section. If an assessment is
25 payable in installments, the full amount of the assessment is a lien from the
26 time the first installment of the assessment becomes due. The association
27 has a lien for fees, charges, late charges, other than charges for late
28 payment of assessments, monetary penalties or interest charged pursuant to
29 section 33-1242, SUBSECTION A, paragraphs 10, 11 and 12 after the entry of a
30 judgment in a civil suit for those fees, charges, late charges, monetary
31 penalties or interest from a court of competent jurisdiction and the
32 recording of that judgment in the office of the county recorder as otherwise
33 provided by law. The association's lien for monies other than for
34 assessments, for charges for late payment of those assessments, for
35 reasonable collection fees and for reasonable attorney fees and costs
36 incurred with respect to those assessments may not be foreclosed and is
37 effective only on conveyance of any interest in the real property.

38 B. A lien for assessments, for charges for late payment of those
39 assessments, for reasonable collection fees and for reasonable attorney fees
40 and costs incurred with respect to those assessments under this section is
41 prior to all other liens, interests and encumbrances on a unit except:

42 1. Liens and encumbrances recorded before the recordation of the
43 declaration.

44 2. A recorded first mortgage on the unit, a seller's interest in a
45 first contract for sale pursuant to chapter 6, article 3 of this title on the

1 unit recorded prior to the lien arising pursuant to subsection A of this
2 section or a recorded first deed of trust on the unit.

3 3. Liens for real estate taxes and other governmental assessments or
4 charges against the unit.

5 C. Subsection B of this section does not affect the priority of
6 mechanics' or materialmen's liens or the priority of liens for other
7 assessments made by the association. The lien under this section is not
8 subject to ~~the provisions of~~ chapter 8 of this title.

9 D. Unless the declaration otherwise provides, if two or more
10 associations have liens for assessments created at any time on the same real
11 estate, those liens have equal priority.

12 E. Recording of the declaration constitutes record notice and
13 perfection of the lien for assessments, for charges for late payment of those
14 assessments, for reasonable collection fees and for reasonable attorney fees
15 and costs incurred with respect to those assessments. Further recordation of
16 any claim of lien for assessments under this section is not required.

17 F. A lien for unpaid assessments is extinguished unless proceedings to
18 enforce the lien are instituted within three years after the full amount of
19 the assessments becomes due.

20 G. This section does not prohibit actions to recover sums for which
21 subsection A of this section creates a lien or does not prohibit an
22 association from taking a deed in lieu of foreclosure.

23 H. A judgment or decree in any action brought under this section shall
24 include costs and reasonable attorney fees for the prevailing party.

25 I. The association on written request shall furnish to a lienholder,
26 escrow agent, unit owner or person designated by a unit owner a statement
27 setting forth the amount of unpaid assessments against the unit. The
28 statement shall be furnished within fifteen days after receipt of the request
29 and the statement is binding on the association, the board of directors and
30 every unit owner if the statement is requested by an escrow agency that is
31 licensed pursuant to title 6, chapter 7. Failure to provide the statement to
32 the escrow agent within the time provided for in this subsection shall
33 extinguish any lien for any unpaid assessment then due.

34 J. The association shall record in the office of the county recorder
35 in the county in which the condominium is located a notice stating the name
36 of the association or designated agent or management company for the
37 association, the address for the association and the telephone number of the
38 association or its designated agent or management company. The notice shall
39 include the name of the condominium community, the date of the recording and
40 the recorded instrument number or book and page for the main document that
41 constitutes the declaration. If an association's address, designated agent
42 or management company changes, the association shall amend its notice or
43 record a new notice within ninety days after the change.

44 K. Notwithstanding any provision in the condominium documents or in
45 any contract between the association and a management company, unless the

1 member directs otherwise, all payments received on a member's account shall
2 be applied first to any unpaid assessments, for unpaid charges for late
3 payment of those assessments, for reasonable collection fees and for unpaid
4 attorney fees and costs incurred with respect to those assessments, in that
5 order, with any remaining amounts applied next to other unpaid fees, charges
6 and monetary penalties or interest and late charges on any of those amounts.

7 L. This section does not apply to timeshare plans or associations that
8 are subject to chapter 20 of this title.

9 Sec. 4. Section 33-1258, Arizona Revised Statutes, is amended to read:

10 33-1258. Association financial and other records; applicability

11 A. Except as provided in subsection B of this section, all financial
12 and other records of the association shall be made reasonably available for
13 examination by any member or any person designated by the member in writing
14 as the member's representative. THE ASSOCIATION SHALL NOT CHARGE A MEMBER OR
15 ANY PERSON DESIGNATED BY THE MEMBER IN WRITING FOR MAKING MATERIAL AVAILABLE
16 FOR REVIEW. THE ASSOCIATION SHALL HAVE TEN BUSINESS DAYS TO FULFILL A
17 REQUEST FOR EXAMINATION. ON REQUEST FOR PURCHASE OF COPIES OF RECORDS BY ANY
18 MEMBER OR ANY PERSON DESIGNATED BY THE MEMBER IN WRITING AS THE MEMBER'S
19 REPRESENTATIVE, THE ASSOCIATION SHALL HAVE TEN BUSINESS DAYS TO PROVIDE
20 COPIES OF THE REQUESTED RECORDS. AN ASSOCIATION MAY CHARGE A FEE FOR MAKING
21 COPIES OF NOT MORE THAN FIFTEEN CENTS PER PAGE.

22 B. Books and records kept by or on behalf of the association and the
23 board may be withheld from disclosure to the extent that the portion withheld
24 relates to any of the following:

25 1. Privileged communication between an attorney for the association
26 and the association.

27 2. Pending ~~or contemplated~~ litigation.

28 3. Meeting minutes or other records of a session of a board meeting
29 that is not required to be open to all members pursuant to section 33-1248.

30 4. Personal, health and OR financial records of an individual member
31 of the association, an individual employee of the association or an
32 individual employee of a contractor for the association, INCLUDING RECORDS OF
33 THE ASSOCIATION DIRECTLY RELATED TO THE PERSONAL, HEALTH OR FINANCIAL
34 INFORMATION ABOUT AN INDIVIDUAL MEMBER OF THE ASSOCIATION, AN INDIVIDUAL
35 EMPLOYEE OF THE ASSOCIATION OR AN INDIVIDUAL EMPLOYEE OF A CONTRACTOR FOR THE
36 ASSOCIATION.

37 5. Records relating to the job performance of, compensation of, health
38 records of or specific complaints against an individual employee of the
39 association or an individual employee of a contractor of the association who
40 works under the direction of the association.

41 C. The association shall not be required to disclose financial and
42 other records of the association if disclosure would violate any state or
43 federal law.

44 D. This section does not apply to an association for a timeshare plan
45 that is subject to chapter 20 of this title.

1 Sec. 5. Section 33-1803, Arizona Revised Statutes, is amended to read:
2 33-1803. Penalties; notice to member of violation

3 A. Unless limitations in the community documents would result in a
4 lower limit for the assessment, the association shall not impose a regular
5 assessment that is more than twenty per cent greater than the immediately
6 preceding fiscal year's assessment without the approval of the majority of
7 the members of the association. Unless reserved to the members of the
8 association, the board of directors may impose reasonable charges for the
9 late payment of assessments. A payment by a member is deemed late if it is
10 unpaid fifteen or more days after its due date, unless the community
11 documents provide for a longer period. Charges for the late payment of
12 assessments are limited to the greater of fifteen dollars or ten per cent of
13 the amount of the unpaid assessment. Any monies paid by the member for an
14 unpaid assessment shall be applied first to the principal amount unpaid and
15 then to the interest accrued.

16 B. After notice and an opportunity to be heard, the board of directors
17 may impose reasonable monetary penalties on members for violations of the
18 declaration, bylaws and rules of the association. Notwithstanding any
19 provision in the community documents, the board of directors shall not impose
20 a charge for a late payment of a penalty that exceeds the greater of fifteen
21 dollars or ten per cent of the amount of the unpaid penalty. A payment is
22 deemed late if it is unpaid fifteen or more days after its due date, unless
23 the declaration, bylaws or rules of the association provide for a longer
24 period. Any monies paid by a member for an unpaid penalty shall be applied
25 first to the principal amount unpaid and then to the interest
26 accrued. Notice pursuant to this subsection shall include information
27 pertaining to the manner in which the penalty shall be enforced.

28 C. BEFORE TAKING ACTION TO ENFORCE THE PROVISIONS OF THE COMMUNITY
29 DOCUMENTS REGARDING THE CONDITION OF THE MEMBER'S PROPERTY, THE ASSOCIATION
30 SHALL PROVIDE THE MEMBER WITH WRITTEN NOTICE OF THE VIOLATION OF THE
31 COMMUNITY DOCUMENTS AND A DESCRIPTION OF THE PROCESS THE MEMBER MUST FOLLOW
32 TO CONTEST THE NOTICE. A MEMBER WHO RECEIVES A WRITTEN NOTICE THAT THE
33 CONDITION OF THE PROPERTY OWNED BY THE MEMBER IS IN VIOLATION OF THE
34 COMMUNITY DOCUMENTS WITHOUT REGARD TO WHETHER A MONETARY PENALTY IS IMPOSED
35 BY THE NOTICE MAY PROVIDE THE ASSOCIATION WITH A WRITTEN RESPONSE BY SENDING
36 THE RESPONSE BY CERTIFIED MAIL WITHIN TEN BUSINESS DAYS AFTER THE DATE OF THE
37 NOTICE. THE RESPONSE SHALL BE SENT TO THE ADDRESS CONTAINED IN THE RECORDED
38 NOTICE PRESCRIBED BY SECTION 33-1807, SUBSECTION J. WITHIN TEN BUSINESS DAYS
39 AFTER RECEIPT OF THE CERTIFIED MAIL CONTAINING THE RESPONSE FROM THE MEMBER,
40 THE ASSOCIATION SHALL RESPOND TO THE MEMBER WITH A WRITTEN EXPLANATION
41 REGARDING THE NOTICE. THE WRITTEN EXPLANATION FROM THE ASSOCIATION SHALL
42 PROVIDE AT LEAST THE FOLLOWING INFORMATION:

43 1. THE PROVISION OF THE COMMUNITY DOCUMENTS THAT HAS ALLEGEDLY BEEN
44 VIOLATED.

1 2. THE DATE OF THE VIOLATION OR THE DATE THE VIOLATION WAS OBSERVED.
2 3. THE FIRST AND LAST NAME OF THE PERSON OR PERSONS WHO OBSERVED THE
3 VIOLATION.
4 D. THE ASSOCIATION SHALL NOT PROCEED WITH ANY ACTION TO ENFORCE THE
5 COMMUNITY DOCUMENTS, INCLUDING THE COLLECTION OF ATTORNEY FEES, BEFORE OR
6 DURING THE TIME PRESCRIBED BY SUBSECTION C OF THIS SECTION REGARDING THE
7 EXCHANGE OF INFORMATION BETWEEN THE ASSOCIATION AND THE MEMBER.
8 Sec. 6. Section 33-1804, Arizona Revised Statutes, is amended to read:
9 33-1804. Open meetings; exceptions
10 A. Notwithstanding any provision in the declaration, bylaws or other
11 documents to the contrary, all meetings of the association and board of
12 directors are open to all members of the association or any person designated
13 by a member in writing as the member's representative and all members or
14 designated representatives so desiring shall be permitted to attend and speak
15 at an appropriate time during the deliberations and proceedings. The board
16 may place reasonable time restrictions on those persons speaking during the
17 meeting but shall permit a member or member's designated representative to
18 speak before the board takes formal action on an item under discussion in
19 addition to any other opportunities to speak. The board shall provide for a
20 reasonable number of persons to speak on each side of an issue. Any portion
21 of a meeting may be closed only if that closed portion of the meeting is
22 limited to consideration of one or more of the following:
23 1. Legal advice from an attorney for the board or the association. On
24 final resolution of any matter for which the board received legal advice or
25 that concerned pending or contemplated litigation, the board may disclose
26 information about that matter in an open meeting except for matters that are
27 required to remain confidential by the terms of a settlement agreement or
28 judgment.
29 2. Pending or contemplated litigation.
30 3. Personal, health and OR financial information about an individual
31 member of the association, an individual employee of the association or an
32 individual employee of a contractor for the association, INCLUDING RECORDS OF
33 THE ASSOCIATION DIRECTLY RELATED TO THE PERSONAL, HEALTH OR FINANCIAL
34 INFORMATION ABOUT AN INDIVIDUAL MEMBER OF THE ASSOCIATION, AN INDIVIDUAL
35 EMPLOYEE OF THE ASSOCIATION OR AN INDIVIDUAL EMPLOYEE OF A CONTRACTOR FOR THE
36 ASSOCIATION.
37 4. Matters relating to the job performance of, compensation of, health
38 records of or specific complaints against an individual employee of the
39 association or an individual employee of a contractor of the association who
40 works under the direction of the association.
41 B. Notwithstanding any provision in the community documents, all
42 meetings of the association and the board shall be held in this state. A
43 meeting of the association shall be held at least once each year. Special
44 meetings of the association may be called by the president, by a majority of
45 the board of directors or by members having at least twenty-five per cent, or

1 any lower percentage specified in the bylaws, of the votes in the
2 association. Unless otherwise provided in the articles or bylaws of the
3 association, not fewer than ten nor more than fifty days in advance of any
4 meeting of the members the secretary shall cause notice to be hand-delivered
5 or sent prepaid by United States mail to the mailing address for each lot,
6 parcel or unit owner or to any other mailing address designated in writing by
7 a member. The notice shall state the time and place of the meeting. A
8 notice of any special meeting of the members shall also state the purpose for
9 which the meeting is called, including the general nature of any proposed
10 amendment to the declaration or bylaws, changes in assessments that require
11 approval of the members and any proposal to remove a director or an
12 officer. The failure of any member to receive actual notice of a meeting of
13 the members does not affect the validity of any action taken at that meeting.

14 C. Unless otherwise provided in the articles or bylaws of the
15 association, for meetings of the board of directors that are held after the
16 termination of declarant control of the association, notice to members of
17 meetings of the board of directors shall be given at least forty-eight hours
18 in advance of the meeting by newsletter, conspicuous posting or any other
19 reasonable means as determined by the board of directors. An affidavit of
20 notice by an officer of the corporation is prima facie evidence that notice
21 was given as prescribed by this section. Notice to members of meetings of
22 the board of directors is not required if emergency circumstances require
23 action by the board before notice can be given. Any notice of a board
24 meeting shall state the time and place of the meeting. The failure of any
25 member to receive actual notice of a meeting of the board of directors does
26 not affect the validity of any action taken at that meeting.

27 Sec. 7. Section 33-1805, Arizona Revised Statutes, is amended to read:

28 33-1805. Association financial and other records

29 A. Except as provided in subsection B of this section, all financial
30 and other records of the association shall be made reasonably available for
31 examination by any member or any person designated by the member in writing
32 as the member's representative. THE ASSOCIATION SHALL NOT CHARGE A MEMBER OR
33 ANY PERSON DESIGNATED BY THE MEMBER IN WRITING FOR MAKING MATERIAL AVAILABLE
34 FOR REVIEW. THE ASSOCIATION SHALL HAVE TEN BUSINESS DAYS TO FULFILL A
35 REQUEST FOR EXAMINATION. ON REQUEST FOR PURCHASE OF COPIES OF RECORDS BY ANY
36 MEMBER OR ANY PERSON DESIGNATED BY THE MEMBER IN WRITING AS THE MEMBER'S
37 REPRESENTATIVE, THE ASSOCIATION SHALL HAVE TEN BUSINESS DAYS TO PROVIDE
38 COPIES OF THE REQUESTED RECORDS. AN ASSOCIATION MAY CHARGE A FEE FOR MAKING
39 COPIES OF NOT MORE THAN FIFTEEN CENTS PER PAGE.

40 B. Books and records kept by or on behalf of the association and the
41 board may be withheld from disclosure to the extent that the portion withheld
42 relates to any of the following:

43 1. Privileged communication between an attorney for the association
44 and the association.

45 2. Pending or ~~contemplated~~ litigation.

1 3. Meeting minutes or other records of a session of a board meeting
2 that is not required to be open to all members pursuant to section 33-1804.

3 4. Personal, health and OR financial records of an individual member
4 of the association, an individual employee of the association or an
5 individual employee of a contractor for the association, INCLUDING RECORDS OF
6 THE ASSOCIATION DIRECTLY RELATED TO THE PERSONAL, HEALTH OR FINANCIAL
7 INFORMATION.

8 5. Records relating to the job performance of, compensation of, health
9 records of or specific complaints against an individual employee of the
10 association or an individual employee of a contractor of the association who
11 works under the direction of the association.

12 C. The association shall not be required to disclose financial and
13 other records of the association if disclosure would violate any state or
14 federal law.

15 Sec. 8. Section 33-1807, Arizona Revised Statutes, is amended to read:

16 33-1807. Lien for assessments; priority; mechanics' and
17 materialmen's liens

18 A. The association has a lien on a unit for any assessment levied
19 against that unit from the time the assessment becomes due. The
20 association's lien for assessments, for charges for late payment of those
21 assessments, for reasonable collection fees and for reasonable attorney fees
22 and costs incurred with respect to those assessments may be foreclosed in the
23 same manner as a mortgage on real estate BUT MAY BE FORECLOSED ONLY IF THE
24 OWNER HAS BEEN DELINQUENT IN THE PAYMENT OF MONIES SECURED BY THE LIEN,
25 EXCLUDING REASONABLE COLLECTION FEES, REASONABLE ATTORNEY FEES AND CHARGES
26 FOR LATE PAYMENT OF AND COSTS INCURRED WITH RESPECT TO THOSE ASSESSMENTS, FOR
27 A PERIOD OF ONE YEAR OR IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED DOLLARS OR
28 MORE, WHICHEVER OCCURS FIRST. Fees, charges, late charges, monetary
29 penalties and interest charged pursuant to section 33-1803, other than
30 charges for late payment of assessments are not enforceable as assessments
31 under this section. If an assessment is payable in installments, the full
32 amount of the assessment is a lien from the time the first installment of the
33 assessment becomes due. The association has a lien for fees, charges, late
34 charges, other than charges for late payment of assessments, monetary
35 penalties or interest charged pursuant to section 33-1803 after the entry of
36 a judgment in a civil suit for those fees, charges, late charges, monetary
37 penalties or interest from a court of competent jurisdiction and the
38 recording of that judgment in the office of the county recorder as otherwise
39 provided by law. The association's lien for monies other than for
40 assessments, for charges for late payment of those assessments, for
41 reasonable collection fees and for reasonable attorney fees and costs
42 incurred with respect to those assessments may not be foreclosed and is
43 effective only on conveyance of any interest in the real property.

1 B. A lien for assessments, for charges for late payment of those
2 assessments, for reasonable collection fees and for reasonable attorney fees
3 and costs incurred with respect to those assessments under this section is
4 prior to all other liens, interests and encumbrances on a unit except:

5 1. Liens and encumbrances recorded before the recordation of the
6 declaration.

7 2. A recorded first mortgage on the unit, a seller's interest in a
8 first contract for sale pursuant to chapter 6, article 3 of this title on the
9 unit recorded prior to the lien arising pursuant to subsection A of this
10 section or a recorded first deed of trust on the unit.

11 3. Liens for real estate taxes and other governmental assessments or
12 charges against the unit.

13 C. Subsection B of this section does not affect the priority of
14 mechanics' or materialmen's liens or the priority of liens for other
15 assessments made by the association. The lien under this section is not
16 subject to chapter 8 of this title.

17 D. Unless the declaration otherwise provides, if two or more
18 associations have liens for assessments created at any time on the same real
19 estate those liens have equal priority.

20 E. Recording of the declaration constitutes record notice and
21 perfection of the lien for assessments, for charges for late payment of
22 assessments, for reasonable collection fees and for reasonable attorney fees
23 and costs incurred with respect to those assessments. Further recordation of
24 any claim of lien for assessments under this section is not required.

25 F. A lien for an unpaid assessment is extinguished unless proceedings
26 to enforce the lien are instituted within three years after the full amount
27 of the assessment becomes due.

28 G. This section does not prohibit:

29 1. Actions to recover amounts for which subsection A of this section
30 creates a lien.

31 2. An association from taking a deed in lieu of foreclosure.

32 H. A judgment or decree in any action brought under this section shall
33 include costs and reasonable attorney fees for the prevailing party.

34 I. On written request, the association shall furnish to a lienholder,
35 escrow agent, unit owner or person designated by a unit owner a statement
36 setting forth the amount of any unpaid assessment against the unit. The
37 association shall furnish the statement within fifteen days after receipt of
38 the request, and the statement is binding on the association, the board of
39 directors and every unit owner if the statement is requested by an escrow
40 agency that is licensed pursuant to title 6, chapter 7. Failure to provide
41 the statement to the escrow agent within the time provided for in this
42 subsection shall extinguish any lien for any unpaid assessment then due.

1 J. The association shall record in the office of the county recorder
2 in the county in which the planned community is located a notice stating the
3 name of the association or designated agent or management company for the
4 association, the address for the association and the telephone number of the
5 association or its designated agent or management company. The notice shall
6 include the name of the planned community, the date of the recording and the
7 recorded instrument number or book and page for the main document that
8 constitutes the declaration. If an association's address, designated agent
9 or management company changes, the association shall amend its notice or
10 record a new notice within ninety days after the change.

11 K. Notwithstanding any provision in the community documents or in any
12 contract between the association and a management company, unless the member
13 directs otherwise, all payments received on a member's account shall be
14 applied first to any unpaid assessments, for unpaid charges for late payment
15 of those assessments, for reasonable collection fees and for unpaid attorney
16 fees and costs incurred with respect to those assessments, in that order,
17 with any remaining amounts applied next to other unpaid fees, charges and
18 monetary penalties or interest and late charges on any of those amounts.

APPROVED BY THE GOVERNOR APRIL 10, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2006.